

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Schools and Libraries Universal)	CC Docket No 02-6
Service Support Mechanism)	
)	
)	

REQUEST OF THE KENTUCKY DEPARTMENT OF EDUCATION
FOR A WAIVER OF FORM 471 LINE 30, COMMISSION’S RULE 54.504(C)

Pursuant to Section 1.3 of the Commission’s Rules¹, the Kentucky Department of Education (KDE) respectfully requests a waiver of the contract certification on the FCC Form 471, Line 30 and the Commission’s rule 54.504(c).

Section 1.3 of Commission’s rules provides that the Commission may waive its rules “if good cause therefore is shown.”² Generally, a waiver is appropriate if “special circumstances warrant deviation from the general rule and such deviation will serve the public interest.”³ A waiver, as explained below, is necessary to ensure that Kentucky schools receive their full eligible E-rate discounts.

The Kentucky Department of Education followed the FCC competitive bidding process and state procurement rules and regulations. The KDE posted all appropriate Forms 470 with the release of each corresponding state Request for Proposal (RFP). The Forms 470, through the RFP language, indicated the state’s intent to have year-to-year renewals. These renewals can be exercised under E-rate rules without the posting of a new Form 470. Kentucky currently has fifteen state master contracts that are impacted by this.

The E-rate application time line and Kentucky’s state purchasing contract renewal processes do not align. When Kentucky applicants file a Form 471, using one of these state master contracts, they do not have a signed contract renewal for the funding year for which they are applying because the contract renewal may be completed after the deadline for the Form 471 and before the end of our fiscal year. The Commission’s rule 54.504(c) and Line 30 of the Form 471 requires that a signed contract be in place prior to filing a Form 471. Under Kentucky’s state procurement regulations, the renewal of state price contracts typically is not performed until after the deadline for the Form 471.

¹ 47 C.F.R. §1.3.

² 47.C.F.R. §1.3.

³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

The Kentucky Education Technology System (KETS) was created in 1992 as part of the Kentucky Education Reform Act (KERA). One of the key principles of KETS is equity across the state in that the very smallest district receives the same price and support as the largest district. To insure all districts obtain the same price and support, Kentucky issues state master contracts from which all districts may purchase. All 176 public school districts and their associated schools, as well as the Kentucky Department of Education, purchase products/services from these contracts.

A waiver of the contract certification would further the public interest by ensuring that Kentucky applicants receive the full amount of E-rate funding for which they are eligible.

Conclusion

Pursuant to the directions given via email on February 10, 2005, by Catriona Ayer, Director of Program Integrity Operations of the SLD, Kentucky submits this request for waiver of Commissioner's rule 54.504(c), line 30 . In order for Kentucky schools to use these year-to-year renewable state master contracts on the Form 471 for Funding Year 2005 and future funding years, the KDE requests that this certification be waived for Kentucky applicants. Good cause exists for waiving the contract certification to ensure that Kentucky schools receive the full benefit of the E-rate funding.

Respectively submitted,
KENTUCKY DEPARTMENT
OF EDUCATION

By: /s/ Gene Wilhoit

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